

REMARKS

Applicant, by the amendments presented above, has made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance.

Claim Objections

Applicant has amended the claims to remove the improper form. Withdrawal of the objection is requested.

Claim Rejections - 35 U.S.C. §103

Claims 1-7 and 19 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over United States Patent Nos. 5,163,423 to Suzuki and 5,718,973 to Koch. Reconsideration and withdrawal of the rejection is requested.

Suzuki discloses a humidification circuit and a method of controlling the humidification circuit using a manual input means to set the desired temperature in a humidity of the gas being supplied to the user. For this circuit to function and to provide the desired temperature and humidity of gas to a user, the circuit requires two temperature sensors (11 and 12) each of which are located in close proximity to the humidifier output and at the outlet of patient circuit 17 respectively.

Claim 1 specifies "a sensor mounting disposed within said housing between said first aperture and said second aperture, adapted such that in use a sensor located in said sensor mounting being at least partially within the path of said flow of gases". Applicant submits that Suzuki does not disclose or suggest having the temperature sensors located in a housing. In addition, claim 1 specifies "a second aperture in said housing in fluid communication with

said internal cavity, in use said flow of gases flowing from said internal cavity through said second aperture and said second aperture being at least partially higher than said first aperture". Applicant further submits that Suzuki does not disclose or suggest having the second aperture at least partially higher than the first aperture, and is not clearly and unambiguously supported by Figure 4.

In addition, Koch discloses the utilization of a baffle plate (13) which is placed in a breathing circuit and is used to protect the sensor from the effects of condensation droplets. Applicant submits that a person skilled in the art would not utilize the baffle plate as disclosed in Koch with the system as disclosed in Suzuki as it is clearly stated in Suzuki at page 3, lines 10-14 that the breathing circuit is capable of supplying the necessary humidity of gas to a patient whilst preventing condensation build-up within the patient circuit. Given this statement, Applicant submits that as condensation is not expected to build-up in the breathing circuit as disclosed in Suzuki, there would be no requirement for a person skilled in the art to insert the baffle plate as disclosed in Koch into the circuit as disclosed in Suzuki.

Therefore, Applicant submits that claim 1 is allowable over Suzuki in view of Koch. Reconsideration and allowance of claim 1 is requested.

Claims 2-4 and 19 are dependent upon claim 1 which Applicant submits is allowable. Therefore, Applicant submits that claims 2-4 and 19 are allowable. Reconsideration and allowance is requested.

Original claims 5 and 7 have been deleted and their features combined to form new claim 21. Claim 21 is dependent upon claim 1 which Applicant submits is allowable. Therefore, Applicant submits that new claim 21 is allowable. In addition, while Koch discloses a housing which is generally elbow-shaped, Koch does not disclose the requirement to have the housing arms displaced at any particular angle with respect to each other.

Consideration and allowance is requested.

Claim 6 has been amended by incorporating the features of claims 7 and 8, now canceled, therein. Claim 6 is ultimately dependent upon claim 1 which Applicant submits is allowable. Therefore, Applicant submits that claim 6 is allowable. Reconsideration and allowance is requested.

Claim 2 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over United States Patent Nos. 5,163,423 to Suzuki in view of 5,718,973 to Koch as applied to claims 1 to 7 and 19 and further in view of United States Patent No. 5,349,946 to McComb. Reconsideration and allowance of claim 2 is requested.

Claim 2 is dependent upon claim 1 which Applicant submits is allowable. Therefore, Applicant submits that claim 2 is allowable. Reconsideration and allowance is requested.

McComb discloses a mechanism for monitoring the flow rate of gas entering a humidifier plus the temperature of the gas exiting the humidifier. Furthermore, the system disclosed in McComb is used for monitoring the flow rate of gas entering the humidifier with a flow meter such that the humidifier delivers molecular humidity which is essentially free of water vapor, hence no rain out is produced in the breathing tubes and the gas is delivered to a patient substantially free of particulate water droplets. Therefore, Applicant submits that there would be no requirement to have a condensation deflecting plate located within the sensor housing, and while the flow meter disclosed in McComb could be applied to the system as disclosed in Suzuki, Applicant submits there is no requirement for a person skilled in the art to utilize the condensation deflector as disclosed in Koch, as rain out would not be produced.

Reconsideration and allowance is requested.

New Claims 22-28

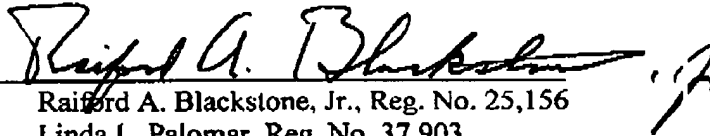
Newly-presented claims 22-28 are dependent upon claim 1 which Applicant submits is allowable. Therefore, Applicant submits that claims 22-28 are allowable. Reconsideration and allowance is requested.

Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

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By:



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